

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER
Criminal File No. 06-379(10) (MJD)

MICHAEL EUGENE SEEBECK,

Defendant.

Chris S. Wilton and W. Anders Folk, Assistant United States Attorneys, Counsel for Plaintiff.

Rick Mattox, Counsel for Defendant.

By the decision of the Eighth Circuit Court of Appeals, this Court's Order denying Defendant's motion to alter or amend judgment [Doc. No. 397] was vacated and the matter remanded to this Court for further proceedings. United States v. Seebeck, No. 09-3333, 2010 WL 3075728 (8th Cir. Aug. 9, 2010). The Eighth Circuit determined that this Court committed legal error if it denied Defendant's motion to alter/amend on the basis that Begay¹ was not retroactively

¹Begay v. United States, 128 S.Ct. 1581 (2008).

applicable to cases on collateral review, citing to its decision in United States v. Sun Bear, 611 F.3d 925 (8th Cir. 2010). Seebeck, at *2.

Pursuant to the mandate of the Eighth Circuit, a hearing in this matter has been scheduled for November 4, 2010 at 8:00 a.m. in Duluth, Minnesota. It has come to the attention of this Court, however, that the petition for rehearing en banc filed in the Sun Bear case has been granted, and the Eighth Circuit's Sun Bear decision dated July 20, 2010 has been vacated; en banc argument is scheduled for January 10, 2011.

In order to conserve judicial resources and in the interests of justice, the Court will continue the hearing in this matter set for November 4, 2010 pending the Eighth Circuit's en banc decision in the Sun Bear matter as that decision may impact the proceedings in the present case.

Date: November 2, 2010

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court